



Contact: Jim Clark
Phone: (02) 6641 6600
Fax: (02) 6641 6601
Email: Jim.Clark@planning.nsw.gov.au
Postal: Locked Bag 9022, Grafton NSW 2460

Mr David Rawlings
General Manager
Kempsey Shire Council
PO Box 78
WEST KEMPSEY NSW 2440

Our ref: PP_2012_KEMPS_002_00 (11/17920)
Your ref: T5-116 IS:IS

Dear Mr Rawlings,

Planning proposal to Kempsey Local Environmental Plan 1987

I am writing in response to your Council's letter dated 8 March 2012 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Kempsey Local Environmental Plan (LEP) 1987 to rezone land at Gilbert Cory Street, South West Rocks from 1(d) Rural Investigation to 2(a) Residential, 7(a) Wetlands Protection and 7(b) Environmental Protection (Habitat).

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

It is noted that Council's principal LEP has progressed and exhibition is imminent. Therefore, Council should identify the proposed zones for the site under Council's Standard Instrument LEP and explain how the planning proposal will amend either the Kempsey LEP 1987 or the Kempsey principal LEP, depending on timing. Council should amend the planning proposal accordingly.

I have also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones and 1.5 Rural Lands are of minor significance. No further approval is required in relation to these Directions.

The amending Local Environmental Plan (LEP) is to be finalised within 24 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal within four (4) weeks from the week following this determination. Council's request for the department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The NSW State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Jim Clark of the regional office of the department on 02 6641 6600.

Yours sincerely,

SHaddad

Sam Haddad
Director-General

8/10/2012.

Gateway Determination

Planning proposal (Department Ref: PP_2012_KEMPS_002_00): to amend Kempsey Local Environmental Plan 1987 to rezone land for residential purposes and environmental protection.

I, the Director-General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Kempsey Local Environmental Plan (LEP) 1987 to rezone land at Gilbert Cory Street, South West Rocks from 1(d) Rural Investigation to 2(a) Residential, 7(a) Wetlands Protection and 7(b) Environmental Protection (Habitat) should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.

2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Aboriginal Lands Council
 - Catchment Management Authority – Northern Rivers
 - Office of Environment and Heritage
 - NSW Department of Primary Industries – Fishing and Aquaculture
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

3. Further to Condition 2 above, Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.

4. Further to Condition 2 above, Council is to collaborate with the Office of Environment and Heritage (OEH) to address the following issues:
 - (a) The proponent is to direct further attention to Scribbly Gum Forest areas within the Kempsey LGA. It would be more appropriate to find offset locations within the LGA than other areas on the Northern Coast,
 - (b) The proponent should confirm the actual availability of lands proposed for use as offsets by undertaking further investigations of tenure, land use management factors and land owner attitudes. These factors may influence the future conservation value of these lands and their availability, and consequently limit their suitability as offsets under the OEH offset principles,



- (c) The proponent is to consult further to determine a mutually acceptable quantum of offset required. This may involve the provision of additional data to refine the accuracy of the current notional outcome; and
 - (d) Appropriate offsets are to be secured for conservation in perpetuity.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be **24 months** from the week following the date of the Gateway determination.

Dated 8th day of October 2012.

A handwritten signature in blue ink that reads 'S Haddad'.

Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure